

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

PATRICK TAGUE
524 NW Highcliffe Drive
Lee's Summit, Missouri 64081

Plaintiff,

v.

THE CHEESECAKE FACTORY RESTAURANTS, INC.
(Service via Cole County Sheriff's Department)
Serve Registered Agent:

CSC-Lawyers Incorporating Service Company
221 Bolivar Street
Jefferson City, Missouri 65101

Defendant.

Case No.: _____

PETITION FOR DAMAGES

COMES NOW Plaintiff Patrick Tague, by and through undersigned counsel, pursuant to the Missouri Supreme Court Rules and for his Petition for Damages does hereby state:

1. Plaintiff is an individual and a resident of Lee's Summit, Jackson County, Missouri.
2. Upon information and belief, Defendant The Cheesecake Factory Restaurants, Inc. is a foreign corporation which is authorized to conduct business in the State of Missouri and in Jackson County, Missouri. It can be served through its registered agent at the address indicated above.
3. Jurisdiction and venue are proper inasmuch as the subject incident occurred in Jackson County, Missouri on property owned, managed and/or controlled by Defendant.

FACTS COMMON TO ALL COUNTS

4. Upon information and belief, at all times relevant hereto, including on July 30, 2017, Defendant owned, managed, operated, controlled, used and/or possessed the restaurant

named “The Cheesecake Factory” which was located at 4701 Wyandotte Street, Kansas City, Jackson County, Missouri 64112 [hereinafter “the Restaurant”].

5. On July 30, 2017, Plaintiff was a patron inside the Restaurant.

6. While walking in the men’s restroom inside the Restaurant and rounding a corner to walk toward the urinals, Plaintiff slipped on the wet floor [hereinafter “the Men’s Restroom Floor”], causing Plaintiff to slip and fall to the ground and thereby sustain injuries.

7. Plaintiff fell due to the dangerous condition of the Men’s Restroom Floor inside the Restaurant; namely, water had accumulated onto the Men’s Restroom Floor from one or more urinals which made the Men’s Restroom Floor slippery.

8. Before Plaintiff began walking on the Men’s Restroom Floor inside the Restaurant, he reasonably believed that the Men’s Restroom Floor was safe for him to walk upon.

9. There were no warnings provided to Plaintiff, either by written signs or orally through employees of Defendant, as to the dangerous condition of the Men’s Restroom Floor inside the Restaurant and, accordingly, the hazard presented thereby was unknown to Plaintiff.

10. Before Plaintiff fell, Defendant, through its employees and/or agents, knew or by using ordinary care could have known that the Men’s Restroom Floor was wet.

11. Before Plaintiff fell, Defendant, through its employees and/or agents, knew or by using ordinary care could have known that water from one or more of the urinals could overflow or otherwise come onto the Men’s Restroom Floor inside the Restaurant.

12. Before Plaintiff fell, Defendant, through its employees and/or agents, had actual and/or constructive knowledge of the dangerous condition of the Men’s Restroom Floor inside the Restaurant.

13. Before Plaintiff fell, Defendant, through its employees and/or agents, had actual and/or constructive knowledge that water from one or more of the urinals could overflow or otherwise come onto the Men's Restroom Floor inside the Restaurant.

14. Despite the fact that Defendant knew or should have known that invitees like Plaintiff may have been in a position to be injured by the condition of the Men's Restroom Floor inside the Restaurant, Defendant failed to take appropriate action so as to prevent this slipping hazard and/or ensure that Plaintiff knew of the dangers presented by this slipping hazard.

15. As a result of the slip-and-fall described herein, Plaintiff felt pain in various parts of his body, including most notably his back. The incident aggravated pre-existing back problems which Plaintiff had. He underwent medical treatment which included, but was not limited to, visits to various doctors, diagnostic imaging, and the taking of medication.

COUNT I – NEGLIGENCE – PREMISES LIABILITY

16. Plaintiff incorporates fully herein by reference the allegations set forth in Paragraphs 1 through 15 of this Petition for Damages.

17. Defendant, acting through its employees and/or agents, had a duty to ensure the safety of the invitees of the Restaurant, including Plaintiff, while present inside the Restaurant, which included maintaining the Men's Restroom Floor free of defects so it could be safely walked upon.

18. Defendant, acting through its employees and/or agents, was obligated to ensure that the Men's Restroom Floor inside the Restaurant was free of defects which could cause or contribute to injuries to invitees of the Restaurant, including Plaintiff, while present inside the Restaurant.

19. Defendant, acting through its employees and/or agents, was obligated to ensure that any and all hazards, particularly in regard to the condition of the Men's Restroom Floor inside the

Restaurant, would be readily apparent to invitees of the Restaurant, including Plaintiff, while present inside the Restaurant.

20. On July 30, 2017, Defendant, acting through its employees and/or agents, failed to use ordinary care under the circumstances to keep the Men's Restroom Floor inside the Restaurant safe for use by Plaintiff.

21. On July 30, 2017, Defendant, acting through its employees and/or agents, failed to use ordinary care under the circumstances to warn Plaintiff of the hazard posed by the dangerous condition of the Men's Restroom Floor inside the Restaurant.

22. The dangerous condition of the Men's Restroom Floor inside the Restaurant, as described above, created a foreseeable risk of harm of the kind of injury which was incurred by Plaintiff.

23. But for the dangerous condition of the Men's Restroom Floor inside the Restaurant and the lack of warnings about same, Plaintiff would not have fallen.

24. Defendant, acting through its employees and/or agents, breached its duty to Plaintiff by:

- a. failing to clear the water which had accumulated on the Men's Restroom Floor inside the Restaurant;
- b. failing to prevent water from the urinals from overflowing and/or otherwise accumulating on the Men's Restroom Floor inside the Restaurant;
- c. failing to close the Men's Restroom inside the Restaurant;
- d. failing to warn invitees using the Men's Restroom inside the Restaurant of the dangerous condition of the Men's Restroom Floor; and/or
- e. failing to provide invitees an alternate route to the urinals and/or toilets in

the Men's Restroom inside the Restaurant, if Defendant could not timely address the dangerous condition of the Men's Restroom Floor.

25. As a direct and proximate result of the negligence of Defendant mentioned herein, Plaintiff slipped and fell to the ground and sustained the following damages:

- a. severe injuries and/or exacerbation of existing injuries to his back;
- b. past and future physical and mental pain and suffering due to his injuries and the associated recovery process;
- c. past and present mental anguish associated with his injuries;
- d. past and future diminished quality of life, including but not limited to, an inability to perform daily activities with the same ease and regularity; and/or
- e. past and future expenses for medical, therapeutic and pharmaceutical care and treatment of his personal injuries.

26. As a direct and proximate result of the negligence of Defendant and the injuries and damages inflicted upon Plaintiff, Plaintiff has sustained damages in excess of Twenty-Five Thousand Dollars (\$25,000.00).

WHEREFORE Plaintiff Patrick Tague respectfully requests that judgment on Count I of his Petition for Damages be entered in his favor and against Defendant The Cheesecake Factory Restaurants, Inc. for compensatory damages in an amount that is fair and reasonable, for pre-judgment and post-judgment interest, for court costs, and for such other and further relief as is just and proper under the circumstances.

DEMAND FOR JURY TRIAL

27. Plaintiff demands a trial by jury on all issues so triable.

/s/ Dennis J. Cassidy

Dennis J. Cassidy

MO#46288

HUNTER & CASSIDY, LLC

600 Broadway, Suite 490

Kansas City, Missouri 64105

Telephone: (816) 421-1377

Facsimile: (816) 421-1833

E-Mail: dcassidy@huntercassidylaw.com

ATTORNEY FOR PLAINTIFF



IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: JAMES DALE YOUNGS	Case Number: 2016-CV16324	(Date File Stamp)
Plaintiff/Petitioner: PATRICK TAGUE	Plaintiff's/Petitioner's Attorney/Address DENNIS CASSIDY HUNTER AND CASSIDY LLC 600 BROADWAY BLVD SUITE 490 KANSAS CITY, MO 64105	
Defendant/Respondent: THE CHEESECAKE FACTORY RESTAURANTS, INC.	Court Address: 415 E 12th KANSAS CITY, MO 64106	
Nature of Suit: CC Pers Injury-Other		

Summons in Civil Case

The State of Missouri to: THE CHEESECAKE FACTORY RESTAURANTS, INC.

Alias:

SRV RA: CSC-LAWYERS INC SERV CO
221 BOLIVAR STREET
JEFFERSON CITY, MO 65101

COURT SEAL OF



JACKSON COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

07-AUG-2020

Date

[Signature]
Clerk

Further Information:

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ (Date) _____ (Notary Public)

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$. _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

SUMMONS/GARNISHMENT SERVICE PACKETS ATTORNEY INFORMATION

Under the Missouri e-filing system now utilized by the 16th Judicial Circuit Court, once a case has been accepted for filing, a clerk prepares the necessary documents for service. The summons/garnishment is sent to the attorney by an e-mail containing a link so that the filer may print and deliver the summons/garnishment, pleadings and any other necessary documents to the person designated to serve the documents.

Pursuant to State statutes, Supreme Court Rules and Local Court Rules, attorneys are required to print, attach and serve specific documents with certain types of Petitions and other filings.

Please refer to the Court's website for instructions on how to assemble the service packets at:

16thcircuit.org → Electronic Filing Information → Required Documents for Service – eFiled cases → Summons/Garnishment Service Packet Information.

Please review this information periodically, as revisions are frequently made. Thank you.

Circuit Court of Jackson County




IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: JAMES DALE YOUNGS	Case Number: 2016-CV16324
Plaintiff/Petitioner: PATRICK TAGUE	Plaintiff's/Petitioner's Attorney/Address DENNIS CASSIDY HUNTER AND CASSIDY LLC 600 BROADWAY BLVD SUITE 490 KANSAS CITY, MO 64105
Defendant/Respondent: THE CHEESECAKE FACTORY RESTAURANTS, INC.	Court Address: 415 E 12th KANSAS CITY, MO 64106
Nature of Suit: CC Pers Injury-Other	(Date File Stamp)

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Alias:
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 221 BOLIVAR STREET
 JEFFERSON CITY, MO 65101

COURT SEAL OF

JACKSON COUNTY

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07-AUG-2020
 Date

[Signature]
 Clerk

Further Information:

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☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.

☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☒ other Non-Est due to time.

Served at _____ (address)
 in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Dennis J. Cassidy
 Printed Name of Sheriff or Server

[Signature]
 Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on 9/14/2020 (date).

My commission expires: 07/01/2022 Date

Jacqueline Thorne
 Notary Public

Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	\$ _____
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ (_____ miles @ \$. _____ per mile)
Total	\$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

PATRICK TAGUE)	
)	
Plaintiff,)	
)	
v.)	Case No.: 2016-CV16324
)	
THE CHEESECAKE FACTORY RESTAURANTS, INC.)	
<u>(Service via Cole County Sheriff's Department)</u>)	
)	
Defendant.)	

REQUEST FOR ALIAS SUMMONS

I hereby request that an alias summons be issued by the circuit clerk in this case, because the first summons was not served on defendant(s).

I am requesting an alias summons be issued for the following defendant(s):

- | | | |
|-----|---|--|
| (1) | The Cheesecake Factory Restaurants, Inc.
CSC-Lawyers Incorporating Service Company
221 Bolivar Street
Jefferson City, Missouri 65101 | (insert name) |
| (2) | | (insert name of second Defendant, if any) |
| (3) | | (insert name of third Defendant, if any) |
| (4) | | (insert name of fourth Defendant, if any) |

Date 09/14/2020

/s/ Dennis J. Cassidy
(Signature of person requesting alias summons)



IN THE 16TH JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI

Judge or Division: JAMES DALE YOUNGS	Case Number: 2016-CV16324	(Date File Stamp)
Plaintiff/Petitioner: PATRICK TAGUE	Plaintiff's/Petitioner's Attorney/Address DENNIS CASSIDY HUNTER AND CASSIDY LLC 600 BROADWAY BLVD SUITE 490 KANSAS CITY, MO 64105	
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JEFFERSON CITY, MO 65101

COURT SEAL OF



JACKSON COUNTY

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16-SEP-2020
Date

Further Information:

[Signature]
Clerk

Sheriff's or Server's Return

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I certify that I have served the above summons by: (check one)

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Served at _____ (address)
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Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ (Date) _____ (Notary Public)

Sheriff's Fees

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COURT SEAL OF

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07-AUG-2020
 Date

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Served at _____ (address)
 in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Dennis J. Cassidy
 Printed Name of Sheriff or Server

[Signature]
 Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on 9/14/2020 (date).

My commission expires: 07/01/2022 Date

Jacqueline Thorne
 Notary Public

Notary Fees

Summons	\$ _____
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Sheriff's Deputy Salary	\$ _____
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**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

PATRICK TAGUE,

PLAINTIFF(S),
VS.

CASE NO. 2016-CV16324
DIVISION 6

THE CHEESECAKE FACTORY RESTAURANTS, INC.,
DEFENDANT(S).

**NOTICE OF CASE MANAGEMENT CONFERENCE FOR CIVIL CASE
AND ORDER FOR MEDIATION**

NOTICE IS HEREBY GIVEN that a Case Management Conference will be held with the Honorable **JAMES DALE YOUNGS** on **03-DEC-2020** in **DIVISION 6** at **01:30 PM**. All Applications for Continuance of a Case Management Conference should be filed on or before Wednesday of the week prior to the case management setting. Applications for Continuance of a Case Management Conference shall comply with Supreme Court Rule and 16th Cir. R. 34.1. Continuance of a Case Management Conference will only be granted for good cause shown because it is the desire of the Court to meet with counsel and parties in all cases within the first 4 months that a case has been on file. All counsel and parties are directed to check Case.NET on the 16th Judicial Circuit web site at www.16thcircuit.org after filing an application for continuance to determine whether or not it has been granted.

A lead attorney of record must be designated for each party as required by Local Rule 3.5.1. A separate pleading designating the lead attorney of record shall be filed by each party as described in Local Rule 3.5.2. The parties are advised that if they do not file a separate pleading designating lead counsel, even in situations where there is only one attorney representing the party, JIS will not be updated by civil records department, and copies of orders will be sent to the address currently shown in JIS. Civil Records does not update attorney information from answers or other pleadings. The Designation of Lead Attorney pleading shall contain the name of lead counsel, firm name, mailing address, phone number, FAX number and E-mail address of the attorney who is lead counsel.

At the Case Management Conference, counsel should be prepared to address at least the following:

- a. A trial setting;
- b. Expert Witness Disclosure Cutoff Date;
- c. A schedule for the orderly preparation of the case for trial;
- d. Any issues which require input or action by the Court;
- e. The status of settlement negotiations.

MEDIATION

The parties are ordered to participate in mediation pursuant to Supreme Court Rule 17. Mediation shall be completed within 10 months after the date the case is filed for complex cases, and 6 months after the date the case is filed for other circuit cases, unless otherwise ordered by the Court. Each party shall personally appear at the mediation and participate in the process. In the event a party does not have the authority to enter into a settlement, then a representative of the entity that does have actual authority to enter into a settlement on behalf of the party shall also personally attend the mediations with the party.

The parties shall confer and select a mutually agreeable person to act as mediator in this case. If the parties are unable to agree on a mediator the court will appoint a mediator at the Case Management Conference.

Each party shall pay their respective pro-rata cost of the mediation directly to the mediator.

POLICIES/PROCEDURES

Please refer to the Court's web page www.16thcircuit.org for division policies and procedural information listed by each judge.

/S/ JAMES DALE YOUNGS

JAMES DALE YOUNGS, Circuit Judge

Certificate of Service

This is to certify that a copy of the foregoing was mailed postage pre-paid or hand delivered to the plaintiff with the delivery of the file-stamped copy of the petition. It is further certified that a copy of the foregoing will be served with the summons on each defendant named in this action.

Attorney for Plaintiff(s):

DENNIS CASSIDY, HUNTER AND CASSIDY LLC, 600 BROADWAY BLVD SUITE 490,
KANSAS CITY, MO 64105

Defendant(s):

THE CHEESECAKE FACTORY RESTAURANTS, INC.

Dated: 07-AUG-2020

MARY A. MARQUEZ
Court Administrator

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

☒ AT KANSAS CITY ☐ AT INDEPENDENCE

RE: PATRICK TAGUE V THE CHEESECAKE FACTORY RESTAURANTS

CASE NO: 2016-CV16324

TO: DENNIS CASSIDY
HUNTER AND CASSIDY LLC
600 BROADWAY BLVD SUITE 490
KANSAS CITY, MO 64105

We have received pleadings, which you submitted for filing in the case and they have been file-stamped on 9-14-20. However, your pleading cannot be processed further until the following action is taken:

RULE 3.2 - STYLE

- ☐ Additional service instructions are needed.
- ☐ Incorrect case number/filed in wrong county.
- ☐ Document is unreadable.

RULE 4.2 (2)

- ☐ Need Circuit Court Form 4

RULE 5.6 - COLLECTIONS OF DEPOSIT

- ☐ No fee, or incorrect fee, received; fee required is \$_____.
- ☐ Insufficient Filing Fee; Please Remit \$_____
- ☐ No signature on check/form 1695.
- ☐ No request to proceed in forma pauperis.
- ☐ No personal checks accepted.

RULE 68.1

- ☐ Need Circuit Court Form 17

☒ **OTHER: How is service to be done? Any questions, please call 881-1370.**

- ☐ Please take the actions necessary to comply with the Circuit Court Rules and your request will be processed.
- ☐ The private process server listed is not on our approved list.
- ☐ Execution in effect. Return date _____. Request may be resubmitted within one week prior to return date.
- ☐ Supreme Court Rule 90.13 requires interrogatories be served with summons of garnishment.

RULE 68.7 - VITAL STATISTICS REPORT

- ☐ Need Certificate of dissolution of marriage form.

RULE 74.14 SUPREME CT - FOREIGN JUDGMENT

- ☐ Authentication of foreign judgment required.
- ☐ Affidavit pursuant to Supreme Court Rule 74.14

RULE 54.12 SERVICE IN REM OR QUASI IN REM ACTIONS

- ☐ Affidavit for Service by Publication required pursuant to Supreme Court Rule 54.12c.
- ☐ Order for Service by Publication required pursuant to Supreme Court Rule 54.12c.
- ☐ Notice for Service by Publication required pursuant to Supreme Court Rule 54.12c.
- ☐ Affidavit for Service by Certified/Registered Mail pursuant to Supreme Court Rule 54.12b.

If the filing was a new case, please be advised that unless the additional information marked is received within 30 days of the date of this notice this case will be dismissed pursuant to Rule 37.4 for failure to prosecute without prejudice, at the Plaintiff's cost. Collection efforts will be pursued for these costs.

Please refer to the Court's website at www.16thcircuit.org for Court Rules or Forms.

Copies electronic noticed, faxed, emailed and/or mailed SEPTEMBER 15, 2020 to:

COURT ADMINISTRATOR'S OFFICE
DEPARTMENT OF CIVIL RECORDS
CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

SEPTEMBER 15, 2020

Date

By


Deputy Court Administrator

- ☒ 415 East 12th St., Kansas City, Missouri 64106
- ☐ 308 W. Kansas, Independence, Missouri 64050